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The **NORTH CAROLINA REGISTER**

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ISSUE DATE: FEBRUARY 15, 1991

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INFORMATION ABOUT THE NORTH CAROLINA REGISTER AND ADMINISTRATIVE CODE

NORTH CAROLINA REGISTER

The *North Carolina Register* is published bi-monthly and contains information relating to agency, executive, legislative and judicial actions required by or affecting Chapter 150B of the General Statutes. All proposed, administrative rules and amendments filed under Chapter 150B must be published in the Register. The Register will typically comprise approximately fifty pages per issue of legal text.

State law requires that a copy of each issue be provided free of charge to each county in the state and to various state officials and institutions. The *North Carolina Register* is available by yearly subscription at a cost of one hundred and five dollars (\$105.00) for 24 issues.

Requests for subscriptions to the *North Carolina Register* should be directed to the Office of Administrative Hearings, P. O. Drawer 27447, Raleigh, N. C. 27611-7447, Attn: *Subscriptions*.

ADOPTION, AMENDMENT, AND REPEAL OF RULES

An agency intending to adopt, amend, or repeal a rule must first publish notice of the proposed action in the *North Carolina Register*. The notice must include the time and place of the public hearing; a statement of how public comments may be submitted to the agency either at the hearing or otherwise; the text of the proposed rule or amendment; a reference to the Statutory Authority for the action and the proposed effective date.

The Director of the Office of Administrative Hearings has authority to publish a summary, rather than the full text, of any **amendment** which is considered to be too lengthy. In such case, the full text of the rule containing the proposed amendment will be available for public inspection at the Rules Division of the Office of Administrative Hearings and at the office of the promulgating agency.

Unless a specific statute provides otherwise, at least 30 days must elapse following publication of the proposal in the *North Carolina Register* before the agency may conduct the required public hearing and take action on the proposed adoption, amendment or repeal.

When final action is taken, the promulgating agency must file any adopted or amended rule for approval by the Administrative Rules Review Commission. Upon approval of ARRC, the adopted or amended rule must be filed with the Office of Administrative Hearings. If it differs substantially from the proposed form published as part of the public notice, upon request by the agency, the adopted version will again be published in the *North Carolina Register*.

A rule, or amended rule cannot become effective earlier than the first day of the second calendar month after the adoption is filed with the Office of Administrative Hearings for publication in the NCAC.

Proposed action on rules may be withdrawn by the promulgating agency at any time before final action is taken by the agency.

TEMPORARY RULES

Under certain conditions of an emergency nature, some agencies may issue temporary rules. A temporary rule becomes effective when adopted and remains in

effect for the period specified in the rule or 180 days whichever is less. An agency adopting a temporary rule must begin normal rule-making procedures on the permanent rule at the same time the temporary rule is adopted.

NORTH CAROLINA ADMINISTRATIVE CODE

The North Carolina Administrative Code (NCAC) is a compilation and index of the administrative rules of 25 state agencies and 38 occupational licensing boards. The NCAC comprises approximately 15,000 letter size single spaced pages of material of which approximately 35% is changed annually. Compilation and publication of the NCAC is mandated by G.S. 150B-63(b).

The Code is divided into Titles and Chapters. Each state agency is assigned a separate title which is further broken down by chapters. Title 21 is designated for occupational licensing boards.

The NCAC is available in two formats.

- (1) Single pages may be obtained at a minimum cost of two dollars and 50 cents (\$2.50) for 10 pages or less, plus fifteen cents (\$0.15) per each additional page.
- (2) The full publication consists of 53 volumes totaling in excess of 15,000 pages. It is supplemented monthly with replacement pages. A one year subscription to the full publication including supplements can be purchased for seven hundred and fifty dollars (\$750.00). Individual volumes may also be purchased with supplement service. Renewal subscriptions for supplements to the initial publication available.

Requests for pages of rules or volumes of the NCAC should be directed to the Office of Administrative Hearings.

NOTE

The foregoing is a generalized statement of the procedures to be followed. For specific statutory language it is suggested that Articles 2 and 5 of Chapter 150B of the General Statutes be examined carefully.

CITATION TO THE NORTH CAROLINA REGISTER

The *North Carolina Register* is cited by volume, issue page number and date. **1:1 NCR 101-201, April 1, 1986** refers to Volume 1, Issue 1, pages 101 through 201 of the *North Carolina Register* issued on April 1, 1986.

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NORTH CAROLINA REGISTER

Publication Schedule

(April 1990 - December 1991)

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*****	*****	*****	*****	*****
04/02/90	03/12/90	03/19/90	05/02/90	08/01/90
04/16/90	03/23/90	03/30/90	05/16/90	08/01/90
05/01/90	04/09/90	04/17/90	05/31/90	09/01/90
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06/01/90	05/10/90	05/17/90	07/01/90	10/01/90
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12/14/90	11/21/90	11/30/90	01/13/91	04/01/91
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12/16/91	11/21/91	12/02/91	01/15/92	04/01/92

* The "Earliest Effective Date" is computed assuming that the public hearing and adoption occur in the calendar month immediately following the "Issue Date", that the agency files the rule with The Administrative Rules Review Commission by the 20th of the same calendar month and that ARRC approves the rule at the next calendar month meeting.

TITLE 2 - DEPARTMENT OF AGRICULTURE

Notice is hereby given in accordance with G.S. 150B-12 that the N.C. Plant Conservation Board intends to amend rule(s) cited as 2 NCAC 48F .0304 and adopt rule(s) cited as 2 NCAC 48F .0306.

The proposed effective date of this action is June 1, 1991.

The public hearing will be conducted at 1:00 p.m. on March 19, 1991 at the Board Room, Agriculture Bldg., 1 W. Edenton St., Raleigh, N.C.

Comment Procedures: Interested persons may present statements either orally or in writing at the public hearing or in writing prior to the hearing by mail addressed to Cecil Frost, Secretary of the North Carolina Plant Conservation Board, P.O. Box 27647, Raleigh, NC 27611.

CHAPTER 48 - PLANT INDUSTRY

SUBCHAPTER 48F - PLANT CONSERVATION

SECTION .0300 - ENDANGERED PLANT SPECIES LIST: THREATENED PLANT SPECIES LIST: LIST OF SPECIES OF SPECIAL CONCERN

.0304 PLANT SPECIES OF SPECIAL CONCERN

(c) Special Concern Not Endangered or Threatened Plant Species are those species that appear on the Special Concern Species List but do not appear on the Endangered Species List or the Threatened Species List and which it shall be unlawful to distribute, sell or offer for sale except as otherwise provided in the rules.

- (1) Dionaea muscipula -- Ellis
Venus Flytrap;
- (2) ~~(4)~~ Panax quinquefolius -- L.
Ginseng.

Statutory Authority G.S. 106-202.15.

.0306 COLLECTION AND SALE OF VENUS FLYTRAP

(a) Definitions:

- (1) Department. The North Carolina Department of Agriculture.
- (2) Flytrap, Venus Flytrap. Any plant of the species *Dionaea muscipula* including cuttings, roots, fruits, seeds, propagules or any other plant part.

(3) Person. Individual, corporation, partnership, firm, or association.

(b) Policy: While exported and known worldwide, Venus Flytrap is found only within a 75 mile radius of Wilmington, North Carolina and in Horrie County, South Carolina. It's decline in the wild has been well documented: it has now been extirpated from two counties in South Carolina and seven counties in North Carolina. Venus Flytrap is protected from illegal collection in North Carolina to protect the rights of private and public landowners from unauthorized removal of flytraps, to support the flytrap trade within the state and to protect the species from over-collection and extinction.

(c) Collection of flytraps:

(1) Venus Flytraps may not be uprooted, dug, taken or otherwise disturbed or removed for any purpose from the lands of another without a written permit from the owner which is dated and valid for no more than 180 days except that the incidental disturbance of flytraps during agricultural, forestry or development operations is not illegal so long as the plants are not collected for sale or barter.

(2) Venus Flytraps may not be uprooted, dug, taken or otherwise disturbed or removed for any purpose from public lands in North Carolina without a written permit from the agency which is responsible for administration for such public lands.

(3) The Replanting of Flytraps. All persons collecting flytraps from the wild are encouraged to plant the seeds of collected plants, if any, in the immediate vicinity of where they are found.

(d) Sale of flytraps: No person may sell or offer for sale Venus Flytraps unless they have been lawfully collected, propagated from lawfully obtained stock plants or seed, or collected from one's own land.

Statutory Authority G.S. 106-202.15.

TITLE 13 - DEPARTMENT OF LABOR

Notice is hereby given in accordance with G.S. 150B-12 that the Department of Labor intends to adopt rules cited as 13 NCAC 16 .0101 - .0102, .0201 - .0208, .0301 - .0303.

The proposed effective date of this action is June 1, 1991.

The public hearing will be conducted at 2:00 p.m. on March 18, 1991 at the Third Floor Board

Room, Education Building, 116 West Edenton Street, Raleigh, NC 27601.

Comment Procedures: People wanting to present oral testimony at the hearing or who want to have written testimony read at the hearing should provide a written summary of the proposed testimony to the Department by March 13, 1991. Oral presentations will be limited to 15 minutes each. Written statements not presented at the hearing will be accepted by the Department until March 18, 1991. All correspondence should be directed to Bobby Bryan, N.C. Department of Labor, 4 West Edenton Street, Raleigh, NC 27601. Interpreters for hearing impaired will be made available if requested, 24 hours in advance.

CHAPTER 16 - MIGRANT HOUSING

SECTION .0100 - GENERAL

.0101 APPLICABILITY

This particular chapter applies to the inspection and occupancy of all migrant housing within the scope of Article 19 of Chapter 95 of the General Statutes.

Statutory Authority G.S. 95-224.

.0102 FORMS

The Department of Labor will issue the following migrant housing operator-related forms in connection with the preoccupancy inspection process:

- (1) A "postal card" requesting a preoccupancy inspection, to be completed by the migrant housing operator to notify the Department of the intent to house migrant workers.
- (2) A card from the Department of Labor indicating receipt of the "postal card" requesting a preoccupancy inspection.
- (3) The "Migrant Housing Preoccupancy Inspection Sheet", to be completed by an inspector and given to the migrant camp operator. This sheet indicates the corrections and modifications that need to be made, if any, to the housing in order for it to be in compliance with the Migrant Housing Act.
- (4) A "Migrant Housing Preoccupancy Abatement Notice" to be completed, signed and dated by the migrant housing operator, indicating that the items listed on the Migrant Housing Preoccupancy Inspection Sheet have been corrected. This form will list each item and the action taken to make the correction.

- (5) A "Housing Occupancy Certificate," which is to be issued to the migrant housing operator when the housing is in full compliance.

Statutory Authority G.S. 95-227; 150B-11.

SECTION .0200 - INSPECTIONS

.0201 CONDUCT OF PREOCCUPANCY INSPECTIONS

(a) Upon the filing of an application for a pre-occupancy inspection by an operator, an inspection shall be scheduled by the Department of Labor. Upon arriving at the migrant housing site, Department of Labor inspectors shall present their credentials to the operator or agent in charge of the housing, explain the nature and purpose of the inspection, and indicate generally the scope of the inspection.

(b) Inspectors shall have authority to take photographs related to the purpose of the inspection and employ other reasonable investigative techniques.

(c) At the conclusion of an inspection, the inspector shall confer with the migrant housing operator or his representative, and complete and leave with the migrant housing operator or his representative the "Migrant Housing Preoccupancy Inspection Sheet" in order to advise him of any apparent safety or health violations disclosed by the inspection. During such conference, the migrant housing operator shall be afforded an opportunity to bring to the attention of the inspector any pertinent information regarding conditions in the housing.

(d) A "Housing Occupancy Certificate" may, on occasion, be issued by the inspector on-site for housing which is in compliance and where water and sewage systems have been approved by the local health department.

Statutory Authority G.S. 95-226.

.0202 ABATEMENT NOTICES

Where apparent safety and health violations are noted during a preoccupancy inspection, a completed "Migrant Housing Preoccupancy Abatement Notice," signed and dated by the migrant housing operator, indicating that all needed corrections have been made, shall be submitted to the Department of Labor before a certificate shall be issued.

Statutory Authority G.S. 95-226.

.0203 CERTIFICATION DENIED

Following a preoccupancy inspection, a migrant housing operator shall not allow migrant housing to be occupied until any apparent safety and

health violations are corrected and a certificate issued.

Statutory Authority G.S. 95-226.

.0204 CONTESTMENT OF DENIAL

Any operator wishing to contest the Department's failure to issue a certificate may do so by filing a petition for a hearing in accordance with G.S. 150B.

Statutory Authority G.S. 95-226; 150B-23.

.0205 ISSUANCE OF CERTIFICATES

A "housing certificate" shall be issued by the Department of Labor to the migrant housing operator when the migrant housing has been approved and shall contain information indicating:

- (1) the name of the operator responsible for the housing;
- (2) the address of the housing;
- (3) the number of occupants allowed to inhabit the housing;
- (4) the expected dates of occupancy;
- (5) a description and number of the housing units;
- (6) the date certificate is issued;
- (7) the date of inspection;
- (8) any special housing conditions which may exist;
- (9) the expiration date of the certificate, which shall be December 31 of the year of the inspection;
- (10) the relevant address of the Department of Labor; and
- (11) the signature of the appropriate official.

Statutory Authority G.S. 95-226.

.0206 POSTING REQUIREMENTS

When the housing has been certified to be in compliance with Article 19 of Chapter 95 of the General Statutes, each migrant housing operator shall notify all migrants by posting the "Housing Certificate(s)" in a place accessible to the migrants.

Statutory Authority G.S. 95-136; 95-226; 95-227.

.0207 REPEAT PREOCCUPANCY VISITS

A repeat visit may be conducted following the preoccupancy inspection to determine if deficiencies listed on the "Migrant Housing Preoccupancy Abatement Sheet" have been corrected. If the housing is occupied when this inspection is made, North Carolina Occupational Safety and Health enforcement procedures shall be followed.

Statutory Authority G.S. 95-226; 95-227.

.0208 ENFORCEMENT VISITS

Enforcement visits shall be conducted in accordance with North Carolina Occupational Safety and Health rules as found in 13 NCAC Chapter 7.

Statutory Authority G.S. 95-227.

SECTION .0300 - PROVISIONAL OCCUPANCY

.0301 PROVISIONAL OCCUPANCY

A migrant housing operator may allow migrant housing to be occupied on a provisional basis if the operator applied for a preoccupancy inspection at least 45 days prior to occupancy, the preoccupancy inspection was not conducted by the Department of Labor of North Carolina at least four days prior to the date specified on the "registration card" as the "arrival date", and the migrant housing operator possesses the card from the North Carolina Department of Labor verifying that the "registration card" has been received.

Statutory Authority G.S. 95-226.

.0302 PROVISIONAL OCCUPANCY DENIED

Provisional occupancy is not permitted if the water and sewage system for the housing has not been approved by the local health department. Any inspection of occupied housing in which water and sewage systems have not been approved will constitute an Occupational Safety and Health enforcement inspection with the issuance of appropriate citations and penalties.

Statutory Authority G.S. 95-226; 95-227.

.0303 INSPECTION OF PROVISIONALLY OCCUPIED HOUSING

When an inspector makes a preoccupancy inspection on housing occupied on a provisional basis, the inspector shall issue an on-site written notice to the migrant housing operator to correct any deficiencies within two days or the provisional occupancy will be revoked. Should the deficiencies not be corrected within two days, then appropriate Occupational Safety and Health penalties and citations will be assessed.

Statutory Authority G.S. 95-226.

**TITLE 15A - DEPARTMENT OF
ENVIRONMENT, HEALTH, AND
NATURAL RESOURCES**

Notice is hereby given in accordance with G.S. 150B-12 that the North Carolina Wildlife Resources Commission intends to amend rule(s) cited as 15A NCAC 10B .0115.

The proposed effective date of this action is June 1, 1991.

The public hearing will be conducted at 7:00 p.m. on March 19, 1991 at the Kernersville Public Library Auditorium, Kernersville, N.C.

Comment Procedures: Interested persons may present their views either orally or in writing at the hearing. In addition, the record of hearing will be open for receipt of written comments from March 4, 1991 to April 3, 1991. Such written comments must be delivered or mailed to the N.C. Wildlife Resources Commission, 512 N. Salisbury Street, Raleigh, NC 27604-1188.

CHAPTER 10 - WILDLIFE RESOURCES AND WATER SAFETY

SUBCHAPTER 10B - HUNTING AND TRAPPING

SECTION .0100 - GENERAL REGULATIONS

.0115 SHINING LIGHTS IN DEER AREAS

(c) No person shall, between the hours of one-half hour after sunset and one-half hour before sunrise, intentionally shine a light upon a deer or intentionally sweep a light in search of deer in the indicated portions of the following counties:

- (1) Alamance -- entire county;
- (2) Alexander -- entire county;
- (3) Alleghany -- entire county;
- (4) Anson -- entire county;
- (5) Ashe -- entire county;
- (6) Avery -- that portion south and east of Highway 221;
- (7) Burke -- entire county;
- (8) Cabarrus -- entire county;
- (9) Caldwell -- entire county;
- (10) Caswell -- entire county;
- (11) Catawba -- entire county;
- (12) Chatham -- entire county;
- (13) Clay -- entire county;
- (14) Cleveland -- entire county;
- (15) Cumberland -- entire county;
- (16) Davidson -- entire county;
- (17) Davie -- entire county;
- (18) Durham -- entire county;
- (19) Edgecombe -- entire county;
- (20) Forsyth County -- entire county;
- (21) ~~(20)~~ Gaston -- entire county;

- (22) ~~(21)~~ Guilford -- entire county;
- (23) ~~(22)~~ Halifax -- entire county;
- (24) ~~(23)~~ Harnett -- entire county;
- (25) ~~(24)~~ Henderson -- entire county;
- (26) ~~(25)~~ Hyde -- that part bounded on the north by a line running parallel with and 1000 yards in a northward direction from that part of SR 1304 that leads from Hodges' Fork to Rose Bay, on the east by the Mattamuskeet National Wildlife Refuge boundary, on the southeast by US 264, and on the west and southwest by a line running parallel with and 1000 yards in a west or southwest direction from the centerline of SR 1304;
- (27) ~~(26)~~ Iredell -- entire county;
- (28) ~~(27)~~ Johnston -- entire county;
- (29) ~~(28)~~ Lee -- entire county;
- (30) ~~(29)~~ Lincoln -- entire county;
- (31) ~~(30)~~ McDowell -- entire county;
- (32) ~~(31)~~ Mecklenburg -- entire county;
- (33) ~~(32)~~ Mitchell -- entire county;
- (34) ~~(33)~~ Northampton -- entire county;
- (35) ~~(34)~~ Person -- entire county;
- (36) ~~(35)~~ Polk -- entire county;
- (37) ~~(36)~~ Randolph -- entire county;
- (38) ~~(37)~~ Robeson County -- entire county;
- (39) ~~(38)~~ Rockingham -- entire county;
- (40) ~~(39)~~ Rowan -- entire county;
- (41) ~~(40)~~ Rutherford -- entire county;
- (42) ~~(41)~~ Scotland -- that part lying west of US 401 north of Laurinburg and north of US 74 west of Laurinburg;
- (43) ~~(42)~~ Stanly -- entire county;
- (44) ~~(43)~~ Stokes -- entire county;
- (45) ~~(44)~~ Surry -- entire county;
- (46) ~~(45)~~ Transylvania -- entire county;
- (47) ~~(46)~~ Union -- entire county;
- (48) ~~(47)~~ Watauga -- entire county;
- (49) ~~(48)~~ Wilkes -- entire county;
- (50) ~~(49)~~ Yadkin -- entire county;
- (51) ~~(50)~~ Yancey -- entire county.

Statutory Authority G.S. 113-134; 113-291.1; S.L. 1981, Ch. 410; S.L. 1981 (Second Session 1982), Ch. 1180.

Notice is hereby given in accordance with G.S. 150B-12 that the North Carolina Wildlife Resources Commission intends to adopt rule(s) cited as 15A NCAC 10K .0001 - .0002.

The proposed effective date of this action is July 1, 1991.

The public hearing will be conducted at 10:00 a.m. on March 18, 1991 at Room 386, Archdale Building, 512 N. Salisbury Street, Raleigh, NC 27604-1188.

Comment Procedures: Interested persons may present their views either orally or in writing at the hearing. In addition, the record of hearing will be open for receipt of written comments from March 1, 1991 to April 2, 1991. Such written comments must be delivered or mailed to the N.C. Wildlife Resources Commission, 512 N. Salisbury Street, Raleigh, NC 27604-1188.

SUBCHAPTER 10K - HUNTER SAFETY COURSE

.0001 COURSE REQUIREMENTS

(a) The hunter safety course shall provide a minimum of ten hours of classroom instruction.

(b) Of the ten hours of instruction required by Paragraph (a) of this Rule, 60 percent of the time shall be devoted to instruction related to the safe handling of firearms. The remaining four hours shall include instruction on hunter responsibility (ethics), wildlife conservation and wildlife management, wildlife identification, game care, specialty hunting, survival and first aid, water safety, and special concerns (alcohol and drugs, turkey hunting, trapping, all terrain vehicles, hunting dogs).

(c) The hunter safety course shall be taught by an instructor certified by the North Carolina Wildlife Resources Commission.

(d) The following requirements must be satisfied by the course participant in order to successfully complete a hunter safety course and be entitled to the issuance of a Certificate of Competency:

(1) attain the age of 12;

- (2) attend all ten hours of the instruction;
- (3) score a minimum of 70 percent on the final written examination; and
- (4) demonstrate to the satisfaction of the instructor that the participant has achieved an appropriate level of competency and safety in the handling of firearms.

Statutory Authority G.S. 113-134; 113-270.1A.

.0002 ISSUANCE OF CERTIFICATE OF COMPETENCY

(a) Upon the conclusion of a hunter safety course, the instructor shall complete a card for each participant who successfully completed the course in accordance with 15A NCAC 10K .0001 and forward the card to the North Carolina Wildlife Resources Commission for processing.

(b) Within a reasonable time after receiving the completed card referred to in Paragraph (a) of this Rule, the Commission shall issue a Certificate of Competency to the participant successfully completing the course. This certificate shall include:

- (1) A certification number;
- (2) The participant's name, address and date of birth;
- (3) The hunter safety course instructor's name; and
- (4) Course completion date.

(c) The Commission shall maintain permanent files of all successful participants in hunter safety courses who were issued a certificate of competency. Duplicate certificates may be obtained from the Commission upon payment of two dollars (\$2.00) per copy to cover the cost of duplication.

Statutory Authority G.S. 12-3.1; 113-134; 113-270.1A.

FINAL RULES

The List of Rules Codified is a listing of rules that were filed to be effective in the month indicated.

*Rules filed for publication in the NCAC may not be identical to the proposed text published previously in the Register. Rules filed with changes are noted with ** Amended, ** Adopted. Please contact this office if you have any questions.*

Adopted rules filed by the Departments of Correction, Revenue and Transportation are published in this section. These departments are not subject to the provisions of G.S. 150B, Article 2 requiring publication in the N.C. Register of proposed rules.

Upon request from the adopting agency, the text of rules will be published in this section.

*Punctuation, typographical and technical changes to rules are incorporated into the List of Rules Codified and are noted as * Correction. These changes do not change the effective date of the rule.*

NORTH CAROLINA ADMINISTRATIVE CODE

LIST OF RULES CODIFIED

FEBRUARY 1991

AGENCY				ACTION TAKEN
<u>DEPARTMENT OF ADMINISTRATION</u>				
1	NCAC	6	.0106	Amended
<u>DEPARTMENT OF AGRICULTURE</u>				
2	NCAC	34	.0305	* Correction
<u>DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT</u>				
4	NCAC	7	.0504	Repealed
			.0506 - .0509	Repealed
			.0510	Amended
			.0511 - .0516	Repealed
		18	.0309	* Correction
<u>OFFICES OF THE GOVERNOR/LIEUTENANT GOVERNOR</u>				
9	NCAC	2B	Executive Order Number 129 Eff. December 14, 1990 Executive Order Number 130 Eff. January 9, 1991	
<u>DEPARTMENT OF HUMAN RESOURCES</u>				
10	NCAC	3V	.0303	** Adopted
		14K	.0103	** Amended
			.0311	Repealed
			.0327	** Amended

FINAL RULES

	.0330 - .0332	Repealed
14M	.0101	Amended
	.0401	Amended
14N	.0701	** Amended
	.0702	Repealed
	.0703	Amended
	.0901 - .0903	Adopted
	.0904	** Adopted
	.0905	Adopted
14P	.0101 - .0102	** Adopted
14Q	.0101 - .0104	** Adopted
	.0201 - .0204	** Adopted
	.0301 - .0306	** Adopted
14R	.0101 - .0107	** Adopted
	.0201	** Adopted
	.0301 - .0303	Adopted
14S	.0101 - .0106	** Adopted
18D	.0117	** Amended
	.0118 - .0119	Amended
	.0121	Amended
	.0208	Amended
	.0216 - .0217	Adopted
18L	.0433	Adopted
	.0434	** Adopted
18M	.0801 - .0802	Amended
	.0817	Adopted
	.0822	Repealed
	.0825 - .0838	Adopted
18Q	.0713	Amended
	.0812	Amended
26B	.0111	** Amended
26H	.0202	** Amended
48		Transferred and Recodified to 15A NCAC 14 Eff. December 20, 1990

DEPARTMENT OF INSURANCE

11	NCAC	8	.0501	Repealed
			.0505	Amended
			.0507 - .0508	Amended
			.0509 - .0510	Repealed
			.0601	Repealed
			.0602	** Amended
			.0605	Amended
			.0701	Repealed
			.0706	Amended
10			.0701	Amended
			.0801	Amended
			.0901	Amended
			.1001	Amended
			.1106	Amended
			.1601 - .1604	Adopted
12			.0834	Adopted
			.0902 - .0903	** Adopted
			.0905 - .0906	** Adopted
			.0907 - .0908	Adopted
			.0909 - .0910	** Adopted
			.0911 - .0912	Adopted

FINAL RULES

	.0913 - .0914	** Adopted
	.0915	Adopted
	.0916 - .0917	** Adopted
	.1016	** Adopted
14	.0308	Temp. Adopted
		Expires 06-15-91

DEPARTMENT OF JUSTICE

12	NCAC	9B	.0104	Amended
			.0205	Amended
			.0212 - .0214	Amended
			.0226 - .0227	Amended
			.0310	Amended
		9C	.0308	Amended
			.0601	Amended
		10B	.0502	Amended

DEPARTMENT OF LABOR

13	NCAC	7C	.0101 - .0102	Amended
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DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY

14A	NCAC	9H	.0402	Amended
			.0704	Amended

DEPARTMENT OF ENVIRONMENT, HEALTH, AND NATURAL RESOURCES

15A	NCAC	2K	.0104	* Correction
			.0222 - .0223	* Correction
		2N	.0203	Temp. Amended
				Expires 07-06-91
		3I	.0007	* Correction
		3J	.0104	** Adopted
		3J	.0301	* Correction
		3K	.0100	* Correction
			.0501	* Correction
		3L	.0202	Adopted
		3O	.0101	* Correction
			.0203	* Correction
		3Q	.0202	** Adopted
		3R	.0003	* Correction
			.0007	* Correction
			.0010	* Correction
		4A	.0005	* Correction
		4B	.0027 - .0028	* Correction
		5B	.0012	* Correction
		13A	.0009	** Amended
			.0010	Amended
			.0012	Amended
		13B	.0101 - .0103	** Amended
			.0201 - .0202	** Amended
			.0203	Amended
			.0301	Amended
			.0401	Amended
			.0503	** Amended
			.0504	Amended
			.0506	Amended

FINAL RULES

	.0508	Amended
	.0901 - .0905	** Adopted
16A	.0801 - .0810	Temp. Adopted
		Expires 07-06-91
17	SOC	* Correction
18A	.1935	* Correction
	.1954	* Correction
19A	.0201	Temp. Amended
		Expires 07-06-91
20A	.0006	Amended
21B	.0301 - .0306	** Amended
24A	.0202	Amended
	.0303	** Amended
24B	.0001	* Correction
	.0004	* Correction

DEPARTMENT OF REVENUE

17	NCAC	6B	.0106 - .0107	Amended
			.0111 - .0112	Amended
			.0117	Amended
			.0610 - .0611	Adopted
			.3203	Amended
			.3402 - .3403	Amended
			.3513	Amended
			.3804	Amended
			.3904	Amended
			.4006	Amended
			.4008	Adopted
			.4103	* Correction
			.4105	* Correction
		6C	.0202 - .0204	Amended
		8	.0403 - .0404	Amended
			.0504	Amended
			.0604 - .0605	Amended

SECRETARY OF STATE

18	NCAC	4	.0101 - .0102	Amended
			.0205 - .0206	Amended
			.0301	Repealed
			.0302 - .0303	Amended
			.0305 - .0308	Amended
			.0310	Repealed
			.0311 - .0314	Amended
			.0315	Repealed
			.0316	** Adopted
			.0401	** Amended
			.0402	Amended
			.0501	Amended
			.0502	** Amended
			.0503 - .0504	Amended
		6	.1202	Amended
			.1210	Adopted

DEPARTMENT OF TRANSPORTATION

19A	NCAC	3J	.0102	Amended
			.0201	Amended

FINAL RULES

.0204	Amended
.0303	Amended
.0308	Amended
.0601	Amended
.0701	Amended

BOARD OF MEDICAL EXAMINERS

21	NCAC	32L	.0001	Temp. Amended
				Expires 05-01-91
			.0005	Temp. Amended
				Expires 05-01-91
			.0009	Temp. Amended
				Expires 05-01-91
		32M	.0006 - .0007	** Adopted

BOARD OF EXAMINERS FOR NURSING HOME ADMINISTRATORS

21	NCAC	37	.0208	** Amended
			.0211	** Amended
			.0301	Amended
			.0302	** Amended
			.0303	Amended
			.0304	** Amended
			.0402	Amended
			.0404 - .0405	Amended
			.0502	** Amended
			.0505	Amended
			.0507	Amended
			.0508 - .0509	** Amended
			.0512	Amended
			.0513	Repealed
			.0517	Amended
			.0518	Repealed
			.0519	** Amended
			.0904	** Amended
			.0906	** Amended
			.0912	** Amended
			.1004	Repealed

BOARD OF PHARMACY

21	NCAC	46	.1912 - .1913	Adopted
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BOARD OF EXAMINERS OF PLUMBING AND HEATING CONTRACTORS

21	NCAC	50	.0408	Amended
			.1201	Adopted
			.1202 - .1203	** Adopted
			.1204 - .1206	Adopted
			.1207	** Adopted
			.1301 - .1305	Adopted

REAL ESTATE COMMISSION

21	NCAC	58A	.0301	Amended
			.0503	Amended
			.0505	Amended
		58C	.0302	Amended

FINAL RULES

	.0308	Amended
58D	.0302	Amended
	.0402	Amended
	.0406	Amended
	.0408 - .0409	Amended

The Administrative Rules Review Commission (ARRC) objected to the following rules in accordance with G.S. 143B-30.2(c). State agencies are required to respond to ARRC as provided in G.S. 143B-30.2(d).

ECONOMIC AND COMMUNITY DEVELOPMENT

Hazardous Waste Management Commission

4 NCAC 18 .0309 - Final Site

ARRC Objection 1/18/91

ENVIRONMENT, HEALTH, AND NATURAL RESOURCES

Adult Health

15A NCAC 16A .0804 - Financial Eligibility

ARRC Objection 1/18/91

15A NCAC 16A .0806 - Billing the HIV Health Services Program

ARRC Objection 1/18/91

Coastal Management

15A NCAC 7J .0409 - Civil Penalties

ARRC Objection 1/18/91

15A NCAC 7J .1109 - Permit Fee

ARRC Objection 1/18/91

Environmental Health

15A NCAC 18C .0102 - Definitions

ARRC Objection 10/18/90

15A NCAC 18C .1532 - Variances and Exemptions

ARRC Objection 10/18/90

15A NCAC 18C .1534 - Max Contaminant Levels for Coliform Bacteria

ARRC Objection 10/18/90

15A NCAC 18C .2001 - General Requirements

ARRC Objection 10/18/90

15A NCAC 18C .2002 - Disinfection

ARRC Objection 10/18/90

15A NCAC 18C .2003 - Filtration

ARRC Objection 10/18/90

15A NCAC 18C .2004 - Analytical and Monitoring Requirements

ARRC Objection 10/18/90

15A NCAC 18C .2005 - Criteria for Avoiding Filtration

ARRC Objection 10/18/90

Marine Fisheries

15A NCAC 3C .0311 - Cancellation

ARRC Objection 9/20/90

Agency Revised Rule

Obj. Removed 10/18/90

15A NCAC 3O .0203 - Shellfish Lease Application Processing

ARRC Objection 8/16/90

Agency Revised Rule

Obj. Removed 9/20/90

Wildlife Resources Commission

15A NCAC 10H .0302 - Minimum Standards

ARRC Objection 9/20/90

Agency Revised Rule

Obj. Removed 10/18/90

ARRC OBJECTIONS

HUMAN RESOURCES

Facility Services

10 NCAC 3V .0303 - Insurance Required

ARRC Objection 11/14/90

Individual and Family Support

10 NCAC 42B .1201 - Personnel Requirements

ARRC Objection 1/18/91

10 NCAC 42C .2001 - Qualifications of Administrator

ARRC Objection 1/18/91

10 NCAC 42C .2002 - Qualifications of Supervisor-in-Charge

ARRC Objection 1/18/91

10 NCAC 42C .2006 - Qualifications of Activities Coordinator

ARRC Objection 1/18/91

10 NCAC 42C .3301 - Existing Building

ARRC Objection 11/14/90

10 NCAC 42D .1401 - Qualifications of Administrator/Co-Administrator

ARRC Objection 11/14/90

INSURANCE

Life: Accident and Health Division

11 NCAC 12 .0904 - Requirements for Utilization Review
Agency Revised Rule

ARRC Objection 12/20/90
Obj. Removed 1/18/91

LICENSING BOARDS AND COMMISSIONS

Medical Examiners

21 NCAC 32M .0007 - Termination of NP Approval

ARRC Objection 11/14/90

Nursing, Board of

21 NCAC 36 .0217 - Revocation, Suspension, or Denial of License
No Response from Agency

ARRC Objection 12/20/90
1/18/91

21 NCAC 36 .0504 - Certificate of Registration

ARRC Objection 1/18/91

21 NCAC 36 .0505 - General and Administrative Provisions

ARRC Objection 1/18/91

21 NCAC 36 .0507 - Fees

ARRC Objection 1/18/91

Physical Therapy

21 NCAC 48C .0102 - Responsibilities
Agency Returned Rule Unchanged

ARRC Objection 9/20/90
No Action 10/18/90

21 NCAC 48C .0501 - Exemption for Students
Agency Returned Rule Unchanged

ARRC Objection 9/20/90
No Action 10/18/90

Plumbing and Heating Contractors

21 NCAC 50 .1203 - Disposition of Petitions

ARRC Objection 11/14/90

21 NCAC 50 .1207 - Request to Participate

ARRC Objection 11/14/90

SECRETARY OF STATE

Securities Division

18 NCAC 6 .1210 - Securities Exchgs/Autod Quot. Sys. Approved/Admin
Agency Responded to Objection

ARRC Objection 12/20/90
No Action 1/18/91

ARRC OBJECTIONS

STATE PERSONNEL

25 NCAC 1B .0107 - Personnel Commission Meetings	ARRC Objection	9/20/90
25 NCAC 1B .0108 - Commission Staff	ARRC Objection	9/20/90
25 NCAC 1B .0109 - Commission Actions	ARRC Objection	9/20/90
25 NCAC 1B .0110 - Motions	ARRC Objection	9/20/90
25 NCAC 1B .0111 - Voting	ARRC Objection	9/20/90
25 NCAC 1B .0112 - Abstention	ARRC Objection	9/20/90
25 NCAC 1B .0113 - Duties of the Chairman	ARRC Objection	9/20/90
25 NCAC 1B .0114 - Order of Business	ARRC Objection	9/20/90
25 NCAC 1B .0115 - Special Meetings	ARRC Objection	9/20/90
25 NCAC 1B .0116 - Duties of Chairman Between Meetings of the Comm	ARRC Objection	9/20/90
25 NCAC 1B .0117 - Standing/Special Committees	ARRC Objection	9/20/90
25 NCAC 1B .0118 - Minutes	ARRC Objection	9/20/90
25 NCAC 1B .0119 - Notice of Commission Action	ARRC Objection	9/20/90
25 NCAC 1B .0120 - Appointment of Vice-Chairman	ARRC Objection	9/20/90
Agency Withdrew Rules .0107 - .0120		10/18/90
25 NCAC 1D .0509 - Severance Salary Continuation	ARRC Objection	1/18/91
25 NCAC 1L .0201 - Purpose	ARRC Objection	9/20/90
25 NCAC 1L .0202 - Policy	ARRC Objection	9/20/90
Agency Withdrew Rules .0201 - .0202		10/18/90

This Section of the Register lists the recent decisions issued by the North Carolina Supreme Court, Court of Appeals, Superior Court (when available), and the Office of Administrative Hearings which invalidate a rule in the North Carolina Administrative Code.

10 NCAC 1B .0202(c) - REQUEST FOR DETERMINATION

Thomas R. West, Administrative Law Judge with the Office of Administrative Hearings, declared Rule 10 NCAC 1B .0202(c) void as applied in *New Hanover Memorial Hospital, Inc., Petitioner v. N.C. Department of Human Resources, Division of Facility Services, Certificate of Need Section, Respondent* (90 DHR 0792).

10 NCAC 1B .0202(c) - REQUEST FOR DETERMINATION

Brenda B. Becton, Administrative Law Judge with the Office of Administrative Hearings, declared Rule 10 NCAC 1B .0202(c) void as applied in *High Point Regional Hospital, Inc., Petitioner v. Department of Human Resources, Division of Facility Services, Certificate of Need Section, Respondent* (90 DHR 0770).

10 NCAC 3R .0317(g) - WITHDRAWAL OF A CERTIFICATE

Robert Roosevelt Reilly, Jr., Administrative Law Judge with the Office of Administrative Hearings, declared Rule 10 NCAC 3R .0317(g) void as applied in *Dawn Health Care, a North Carolina General Partnership, Petitioner v. Department of Human Resources, Certificate of Need Section, Respondent* (90 DHHR 0296).

10 NCAC 3R .0317(g) - WITHDRAWAL OF CERTIFICATE

Michael Rivers Morgan, Administrative Law Judge with the Office of Administrative Hearings, declared Rule 10 NCAC 3R .0317(g) void as applied in *Autumn Corporation, Petitioner v. N.C. Department of Human Resources, Division of Facility Services, Certificate of Need Section, Respondent* (90 DHHR 0321 and 90 DHHR 0318).

10 NCAC 26I .0101 - PURPOSE: SCOPE/NOTICE OF CHANGE IN LEVEL OF CARE

10 NCAC 26I .0102 - REQUESTS FOR RECONSIDERATION AND RECIPIENT APPEALS

10 NCAC 26I .0104 - FORMAL APPEALS

Thomas R. West, Administrative Law Judge with the Office of Administrative Hearings, declared Rules 10 NCAC 26I .0101, 10 NCAC 26I .0102 and 10 NCAC 26I .0104 void as applied in *Linda Allred, Petitioner v. North Carolina Department of Human Resources, Division of Medical Assistance, Respondent* (90 DHHR 0940).

10 NCAC 42W .0003(c) - COUNTY DEPT OF SOCIAL SERVICES RESPONSIBILITIES

10 NCAC 42W .0005 - REPORTING CASES OF RAPE AND INCEST

The North Carolina Court of Appeals, per Judge Robert F. Orr, declared Rules 10 NCAC 42W .0003(c) and 10 NCAC 42W .0005 void as applied in *Rankin Whittington, Daniel C. Hudgins, Dr. Takey Crist, Dr. Gwendolyn Boyd and Planned Parenthood of Greater Charlotte, Inc., Plaintiffs v. The North Carolina Department of Human Resources, David Flaherty, in his capacity as Secretary of the North Carolina Department of Human Resources, The North Carolina Social Services Commission, and C. Barry McCarty, in his capacity as Chairperson of the North Carolina Social Services Commission, Defendants* [100 N.C. App. 603 (398 S.E.2d 40) (1990)].

The North Carolina Administrative Code (NCAC) has four major subdivisions of rules. Two of these, titles and chapters, are mandatory. The major subdivision of the NCAC is the title. Each major department in the North Carolina executive branch of government has been assigned a title number. Titles are further broken down into chapters which shall be numerical in order. The other two, subchapters and sections are optional subdivisions to be used by agencies when appropriate.

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5	Correction	Chiropractic Examiners	10
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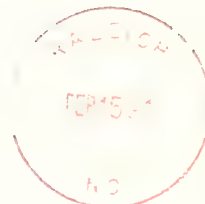
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